

*Before the*  
Federal Communications Commission  
Washington, D.C. 20554

|   |   |                      |
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| In the matter of                                | ) |                      |
|   | ) |                      |
| 2002 Biennial Regulatory Review – Review of the | ) | MB Docket No. 02-277 |
| Commission’s Broadcast Ownership Rules and      | ) |                      |
| Other Rules Adopted Pursuant to Section 202 of  | ) |                      |
| the Telecommunications Act of 1996              | ) |                      |
|   | ) |                      |
| Cross-Ownership of Broadcast Stations and       | ) | MM Docket No. 01-235 |
| Newspapers                                      | ) |                      |
|   | ) |                      |
| Rules and Policies Concerning Multiple          | ) | MM Docket No. 01-317 |
| Ownership of Radio Broadcast Stations           | ) |                      |
| in Local Markets                                | ) |                      |
|   | ) |                      |
| Definition of Radio Markets                     | ) | MM Docket No. 00-244 |

**PETITION FOR RECONSIDERATION**

**JOINT FILING BY  
CENTER FOR THE CREATIVE COMMUNITY  
ASSOCIATION OF INDEPENDENT VIDEO AND FILMMAKERS**

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## I. SUMMARY

The Commission's 2002 Biennial Media Ownership Report and Order is fundamentally flawed and must be reconsidered. The Commission correctly concludes that concentrated media ownership harms viewpoint diversity. But it then ignores the evidence before it documenting extreme concentration of ownership in television and enacts rules that will further concentrate that ownership, thus further reducing viewpoint diversity, which is already an endangered species on television:

- Five giant media conglomerates (Viacom/CBS/UPN/MTV/etc., GE/NBC/MSNBC/CNBC/Bravo/etc., Disney/ABC/ESPN/etc., News Corp./FOX/FX/Fox News/etc., and AOL/Time Warner/WB/CNN/TNT/TBS/etc.) own broadcast and cable outlets that control approximately a 75% share of prime-time viewing, roughly the same share of TV households in prime time as the three broadcast networks did 40 years ago, pre-cable.
- Of the 91 major cable television networks each available in more than 16 million homes, fully 80 percent (73 networks) are owned or co-owned by just six media conglomerates – the same five giant media conglomerates plus Liberty Media. This concentration will increase even more if NBC takes over Vivendi/Universal, owner of USA and Sci-Fi Networks.
- The same five giant media conglomerates plus Vivendi/Universal (which NBC, one of those five giants, may soon take over) now also produce the vast majority of programming for television. Of the 40 new series airing on the four major broadcast networks in the 2002 season, 77.5 percent are owned in whole or part by the same four networks, up from 56.3 percent the prior season – an increase of over 37 percent in just one year -- and up from just 12.5 percent in 1990.

The Commission's Order disregards its own principles, ignores critical evidence in the record, and contradicts itself repeatedly, as we discuss in detail below. Two examples suffice here: while the Commission emphatically declares that "the widest possible dissemination of information from diverse and antagonistic sources is essential to the welfare of the public," it refuses to make diversity of sources a goal of its broadcast ownership policies. And while the Commission concludes that program repeats harm the radio audience, it concludes that program repeats benefit the television audience.

After enacting new rules that will eviscerate viewpoint diversity and localism, the Commission now plans to study ways to promote viewpoint diversity and localism. This is the Commission's own tacit admission that its Order is fundamentally flawed. Common sense, good government, and the public interest all require the FCC to reconsider its admittedly flawed new media ownership rules.

## II. INTRODUCTION

The Center for the Creative Community (CCC) provides public education, research, and policy development on behalf of the tens of thousands of writers, directors, producers, performers, and others who give life to our nation's popular entertainment. Many Oscar, Emmy, Peabody, Tony, and other creative award winners are members of CCC's Board of Advisors. CCC has actively participated in this biennial media ownership proceeding, filing Comments, Comments on the Initial Regulatory Flexibility Analysis, Reply Comments, and *ex parte* filings.<sup>1</sup>

The Association of Independent Video and Filmmakers is a 30-year old national trade association providing support to individual media artists and producers. Established by a group of independent filmmakers, AIVF is the largest national organization representing independent media artists working at all levels across all genres. AIVF members number over five thousand individuals (from students to Academy Award winners) and 350 businesses across the country.<sup>2</sup>

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<sup>1</sup> Comments of Center for the Creative Community, *In the Matter of 2002 Biennial Regulatory Review – Review of the Commission's Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996, Cross Ownership of Broadcast Stations and Newspapers, Rules and Policies Concerning Multiple Ownership of Radio Broadcast Stations in Local Markets, Definition of Radio Markets*, MB Docket No. 02-277, January 2, 2003 (CCC Comments); Comments on the Initial Regulatory Flexibility Analysis, MB Docket No. 02-277, January 2, 2003; Reply Comments of Center for the Creative Community, MB Docket No. 02-277, February 3, 2003; Testimony of Jonathan Rintels, Executive Director of CCC at FCC En Banc Hearing, Richmond, VA, February 27, 2003; *Ex Parte* submissions, MB Docket No. 02-277, filed April 14, 2003 (2), April 18, 2003, May 14, 2003.

<sup>2</sup> Hundreds of individual AIVF members filed comments in this proceeding utilizing a link on AIVF's website, <http://www.aivf.org/advocacy/fccaction.html>.

CCC and AIVF ask the Commission to reconsider its Order of June 2, 2003 as it relates to the national television ownership cap, the dual network rule, as well as its rejection of requests by several parties to enact a rule which would prevent television networks from monopolizing the production of the entertainment programming they distribute on their primetime schedules.<sup>3</sup> We believe the Commission's Order concerning these issues is fundamentally flawed because it is based on an incorrect analysis of viewpoint diversity that disregards its own principles, ignores critical evidence in the record, and relies on contradictory reasoning. As a result, the Commission's new rules do not promote the Commission's core goal of viewpoint diversity, are not in the public interest, and are not in accordance with -- nor are they sustainable under -- the 1996 Telecommunications Act.

We applaud Chairman Powell's "Localism in Broadcasting" Initiative<sup>4</sup> and his comments at the Aspen Summit of the Progress and Freedom Foundation that the Commission will study concentration of media ownership this fall and "put itself back in the leadership position in trying to look at these concerns."<sup>5</sup> However, the fact that the Commission will now study viewpoint diversity and localism, two of the three core goals of its media ownership policies (competition being the third), after issuing its Order is a tacit admission that its reasoning and analyses supporting the Order are inadequate and fatally flawed. We agree with Commissioner Copps's comment that the Commission

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<sup>3</sup> We limit our petition to these items as they are the only items CCC previously commented on. As with CCC's prior comments in this proceeding, we take no position on the other rules before the Commission or other portions of the Commission's order.

<sup>4</sup> "FCC Chairman Powell Launches 'Localism in Broadcasting' Initiative," *FCC News*, August 20, 2003.

<sup>5</sup> "FCC to Probe Media Ownership Concentration," by David Ho, AP, *Yahoo News*, August 18, 2003.

“should have heeded the calls from over 2 million Americans and so many Members of Congress expressing concern about the impact of media concentration on localism and diversity *before* we rushed to a vote... This is a policy of ‘ready, fire, aim!’”<sup>6</sup>

Common sense, good government, and the public interest all require the FCC to reconsider its admittedly flawed new media ownership rules.

### **III. THE COMMISSION’S ANALYSIS OF VIEWPOINT DIVERSITY IS FUNDAMENTALLY FLAWED**

We agree with the Commission that viewpoint diversity should remain a core policy objective in regulating media ownership.<sup>7</sup> We agree with the Commission that a “diverse and robust marketplace of ideas is the foundation of our democracy” and that “it has been a basic tenet of national communications policy that the widest possible dissemination of information from diverse and antagonistic sources is essential to the welfare of the public.”<sup>8</sup>

We support the Commission’s conclusion that “outlet ownership can be presumed to affect the viewpoints expressed on that outlet.”<sup>9</sup> This is a sound and fundamental principle upon which to regulate television, and, more broadly, media ownership, well-supported by precedent and the record. After all, few would suggest that Chevrolet and Cadillac are separate automotive company “viewpoints.” Rather, the “viewpoint” is that of their conglomerate owner, General Motors. The same principle holds true in television with regard to conglomerates that own multiple distribution outlets positioned to appeal

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<sup>6</sup> “Copps Criticizes Willingness to Let Media Consolidation Continue,” *FCC News*, August 20, 2003.

<sup>7</sup> Order, para. 18.

<sup>8</sup> Order, para. 19.

<sup>9</sup> Order, para. 27.

to different segments of the viewing audience, just as Chevrolet and Cadillac are positioned by GM to appeal to different segments of the car market. The “viewpoint” is that of the owner – the conglomerate – and not of its subsidiary distribution outlet.

Unfortunately, however, while the Commission articulated this sound principle in its Order, it failed to apply it in its analysis. Instead, throughout the Order, the Commission merely counts the number of distribution outlets and concludes viewpoint diversity is sufficient, without any further inquiry into either the ownership of those outlets or the share of the audience those owners control.

For example, the Commission concludes that “the diversity of viewpoints by national media on national issues is greater than that regarding local issues. This is principally due to the vast array of national news sources available on the Internet, cable television and DBS.”<sup>10</sup> But who owns those news sources and how much of the audience do they control? The Commission doesn’t say. However, this record does. To cite just one example, this record contains a research study titled “Returning Oligopoly of Media Threatens Cable’s Power” by respected Wall Street analyst Tom Wolzien which finds, “Together, the five companies (Viacom/CBS/UPN/MTV/etc., Disney/ABC/ESPN/etc., GE/NBC/MSNBC/CNBC/Bravo/etc., News Corp./FOX/FX/Fox News/etc., and AOL/Time Warner/WB/CNN/TNT/TBS/etc.) controlled about a 75% share of prime-time viewing, not including their nonconsolidated partnerships like A&E, Court TV and Comedy Central... roughly the same percentage of TV households in prime time as the

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<sup>10</sup> Order, para. 35.

three nets did 40 years ago. The programming oligopoly appears to be in a process of rebirth.”<sup>11</sup>

Unless the Commission analyzes who owns these news outlets – and then further analyzes whether there is excessive concentration in that ownership – by its own reasoning it hasn’t really analyzed viewpoint diversity at all and has no basis to make any conclusion about national viewpoint diversity.

Another example of the Commission’s flawed approach is its rejection of source diversity as a separate policy goal because the “the average U.S. household receives seven broadcast television networks and an average of 102 channels per home.”<sup>12</sup> But who owns those 102 channels per home? Again, the Commission does not analyze this critical question. However, this record shows that of the 91 major cable television networks each available in more than 16 million homes, fully 80 percent (73 networks) are outlets owned or co-owned by the same five giant media conglomerates that control a 75% share of the national audience, plus Liberty Media.<sup>13</sup> This concentration will increase even more if NBC takes over Vivendi/Universal, owner of USA and Sci-Fi Networks.

Worse, those same five giant media conglomerates plus Vivendi/Universal (which NBC, one of the five giants, may soon take over) now also produce the vast majority of programming for television. Of the 40 new series airing on the four major broadcast

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<sup>11</sup> Tom Wolzien and Mark McKenzie, “*Returning Oligopoly of Media Threatens Cable’s Power*,” Bernstein Research, Sanford C. Bernstein & Co., February 7, 2003, p. 3.

<sup>12</sup> Order, para. 45.

<sup>13</sup> Comments Of The Writers Guild Of America Regarding Harmful Vertical And Horizontal Integration In The Television Industry, Relating To: CS Docket 98-82: *Implementation of Section 11 of the Cable Television Consumer Protection and Competition Act of 1992*, Appendix A, pp. 17-21, January 4, 2002, cited in CCC Comments, pp. 10-11. Wolzien and McKenzie, p.3.

networks in the 2002 season, 77.5 percent are owned in whole or part by the same four networks, up from 56.3 percent the prior season – an increase of over 37 percent in just one year -- and up from just 12.5 percent in 1990.<sup>14</sup>

We strongly believe these data demonstrate both outlet ownership and source ownership are so concentrated that viewpoint diversity is irrefutably endangered. But the point here is that the Commission justified its conclusions based solely on a count of outlets, without any analysis of outlet ownership. Thus, the Commission's conclusions regarding one of its most important goals in regulating media ownership – viewpoint diversity -- are, by the Commission's own reasoning, fundamentally flawed.

This flawed analytical approach also taints the Commission's justification for relaxing the National Television Ownership Rule. The Commission concludes, "the proliferation of media outlets nationwide renders the current rule unnecessary" in promoting viewpoint diversity.<sup>15</sup> Yet again, by its own reasoning, absent an analysis of the ownership of those outlets, the Commission has no basis to justify such a conclusion on the "proliferation of media outlets nationwide." Nor does the Commission reconcile the contradiction between its conclusion on national ownership limits and its earlier conclusion that "a larger number of independent owners will tend to generate a wider array of viewpoints in the media than would a comparatively smaller number of owners."<sup>16</sup>

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<sup>14</sup> William T. Bielby and Denise D. Bielby, Sociology Department, University of California, Santa Barbara, "*Controlling Primetime: Organizational Concentration And Network Television Programming Strategies*," forthcoming article in *Journal of Broadcasting and Electronic Media*, attached to CCC Comments as Table 1, p. 40, with the kind permission of its authors.

<sup>15</sup> Order, para. 535.

<sup>16</sup> Order, para. 27.



The Commission's treatment of the Dual Network Rule provides another example of the inconsistencies and contradictions inherent in its analysis of viewpoint diversity. While we strongly support the Commission retaining the Dual Network Rule, its rationale again is fundamentally flawed when it concludes the rule cannot be justified "on program diversity or viewpoint diversity grounds."<sup>17</sup> The Commission states that, "(A)lthough we received conjectural statements regarding the repurposing of some programming, and stories of news operations being shared in a few markets, these reports do not evidence a systematic reduction in diversity as a result of media mergers. The record provides no evidence that, because some stations share news operations, viewpoint diversity is diminished."<sup>18</sup>

The Commission's explanation here contradicts its earlier viewpoint diversity conclusions that "owners of media outlets clearly have the ability to affect public discourse" and "sound public policy requires us to assume that power is being, or could be, exercised."<sup>19</sup> If the Commission must assume one owner will exercise its power to promote its own viewpoint on all the outlets it owns, then whether there is evidence in the record or not that it is exercising its power at any one particular time is irrelevant.

The Commission concludes that eliminating the Dual Network Rule would result in injuries to competition and localism because it would "harm viewers through reductions in program output, program choices, program quality, and innovation" while "providing the networks with undue economic leverage over their affiliates, reducing the ability of affiliates to bargain with their network for favorable terms of affiliation, giving

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<sup>17</sup> Order, para. 621.

<sup>18</sup> Id.

<sup>19</sup> Order, para. 28.

the networks greater power in program selection, and diminishing alternative choices of programming for affiliates.”<sup>20</sup> Each of these injuries cited by the Commission is also a significant injury to viewpoint diversity.<sup>21</sup>

We note another inconsistency in the Commission’s analysis of viewpoint diversity and the Dual Network Rule. The Commission asserts that “repurposing” – immediate reruns on another outlet of the same company -- does not result in a “diminution of program diversity” and is “likely to produce net benefits to the viewers of network television.”<sup>22</sup> Yet in radio, the Commission concludes that “program diversity promotes the public interest by affording consumers access to a greater array of programming choices. We have long recognized that the most extreme example of zero program diversity – duplication of programming – generally results in an inefficient use of the scarce radio spectrum and a lost opportunity to use that spectrum to serve a community.... The corollary is that greater variety of differentiated programming advances the public interest....”<sup>23</sup> Repurposing is duplication of television programming, a quick rerun on a second network owned by the same company, thus harming program diversity by eliminating a program on that second network. Why does the Commission analyze viewpoint and program diversity in television differently, especially when there are far more radio than television outlets and owners in this country?

The Commission’s decision to retain the Dual Network Rule can certainly be justified on viewpoint diversity grounds, as well as on competition and localism grounds. We believe the Commission should say so.

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<sup>20</sup> Order, para. 621.

<sup>21</sup> See CCC Comments, pp. 10-23.

<sup>22</sup> Order, para. 620.

<sup>23</sup> Order, para. 308.

When the Commission dismissed the requests of CCC and others to encourage source diversity and prevent networks from monopolizing the production of programming they distribute, it again used a fundamentally flawed analysis of viewpoint diversity. The Commission argues that consumers and viewers are not harmed by vertical integration, “particularly in light of the quantity and variety of media outlets for programming in today's media marketplace....”<sup>24</sup> It states that, “(V)iewers today have more programming choices available to them over-the-air, through cable, satellite, or home video, than ever before.”<sup>25</sup> Again, the Commission relies solely on the number of distribution outlets available, rather than the ownership of those outlets.

We believe an analysis of outlet and source ownership would have caused the Commission to come to a very different conclusion – that it must act to promote independent viewpoints and sources in the production of television programming. We believe there is compelling evidence in this record of outlet and source ownership so concentrated that it dangerously reduces the viewpoint diversity that is a core goal of the Commission’s media ownership policy. Thus, Commission action is required.

#### **IV. THIS RECORD CONTAINS COMPELLING EVIDENCE OF CONCENTRATED MEDIA OWNERSHIP IN TELEVISION**

As we note above, in determining the adequacy of viewpoint diversity on television, the Commission should have analyzed the ownership of outlets on television. This record contains compelling evidence that television outlet ownership is highly concentrated, harming viewpoint diversity and the public interest.

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<sup>24</sup> Order, para. 651.

<sup>25</sup> Order, para. 654.

For example, as we note above, this record contains the research study titled “Returning Oligopoly of Media Threatens Cable’s Power” by respected Wall Street analyst Tom Wolzien, entered by Victoria Riskin, President of the Writers Guild of America, west, when she testified at the Commission’s public hearing in Richmond, and which was subsequently cited and discussed by CCC.<sup>26</sup> In this study, Wolzien contrasts the high number of television networks available to the public with the diminishing number of owners of those networks and concludes that five media conglomerates, with their broadcast and cable networks, are now on the verge of controlling the same percentage of television households as the big three broadcast networks did forty years ago, before the advent of cable.<sup>27</sup>

Wolzien’s study is precisely the kind of ownership study the Commission should have used to determine, based upon its own viewpoint diversity principles, whether there was sufficient viewpoint diversity in television. Yet its Order never mentions this crucial study from this highly respected independent research source.

In response to the Commission’s repeated requests for empirical data, Writers Guild of America, west, CCC, the Coalition for Program Diversity, and Consumer Federation of America all placed into this record other data that all tell the same story as Wolzien: ownership of production and distribution in television is highly – and dangerously -- concentrated in the hands of a few giant media conglomerates.<sup>28</sup> This

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<sup>26</sup> Wolzien and McKenzie, cited in WGA, west President Victoria Riskin’s testimony and CCC Director Jonathan Rintels’s testimony at FCC Richmond public hearing as well as CCC Ex Parte Filing, April 14, 2003.

<sup>27</sup> Id.

<sup>28</sup> CCC Comments, pp.10-14 and Table 1, p. 33.

evidence was barely addressed by the Commission's Order, even though it is critical to the question of the adequacy of viewpoint diversity.

To properly analyze viewpoint diversity, the Commission must reconsider the substantial evidence placed into this record by these parties and others on the concentration of ownership in television. We believe the evidence shows while there are many more outlets available to the American public today than in the past, there is excessive concentration in the number of owners of those outlets. Thus, in accordance with the principles the Commission itself articulates, there is not sufficient viewpoint diversity in television.

## **V. THE COMMISSION MUST PROMOTE SOURCE DIVERSITY TO REMEDY INADEQUATE VIEWPOINT DIVERSITY IN TELEVISION**

Despite the Commission's emphatic declaration that "the widest possible dissemination of information from diverse and antagonistic sources is essential to the welfare of the public,"<sup>29</sup> the Commission refuses to make diversity of sources a separate goal of its broadcast ownership policies.<sup>30</sup> We disagree with this conclusion. Given the high concentration of ownership, source diversity should be a separate policy goal of the Commission because the Commission has found that source diversity contributes to its "retail" goal of viewpoint diversity.<sup>31</sup> Moreover, source diversity furthers other important Commission goals, such as program diversity,<sup>32</sup> promotion of opportunities for

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<sup>29</sup> Order, para. 19.

<sup>30</sup> Order, para. 43.

<sup>31</sup> CCC Comments, pp. 27-31.

<sup>32</sup> Order, para. 42.

minorities, women, and small businesses, and competition.<sup>33</sup> It is also easy to measure, unlike viewpoint diversity, and has been sanctioned by the courts as a valid means for the Commission to promote viewpoint diversity.<sup>34</sup>

But for the purposes of this petition for reconsideration, we need not ask the Commission to overturn its conclusion and make source diversity an explicit goal of its broadcast ownership policies. Rather, we simply ask the Commission to properly analyze the excessive concentration of outlet ownership, which, by its own principles, demonstrates the lack of viewpoint diversity in television. Then we ask the Commission to implement a rule requiring source diversity to promote its “retail” goal of viewpoint diversity, as it has done successfully in the past when ownership was excessively concentrated.<sup>35</sup>

The Commission admits that “fewer of the programs in the Networks’ prime-time lineup are produced by independent producers than at times in the past.”<sup>36</sup> Thus, source diversity has been reduced. Indeed, the evidence shows it has been reduced dramatically. As CCC noted in its comments, of the 40 new series airing on the four major broadcast networks in the 2002 season, 77.5 percent are owned in whole or part by those networks, up from 56.3 percent the prior season – an increase of over 37 percent in just one year -- and up from just 12.5 percent in 1990.<sup>37</sup>

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<sup>33</sup> CCC Comments, p. 28-8.

<sup>34</sup> *Schurz Communications, Inc. v. FCC*, 982 F.2d 1043 (7th Cir. 1992) at 1049. “...it should be apparent that the networks have no hope of proving to our satisfaction that the Commission is without *any* power to restrict the networks’ participation in television programming.” (Judge Posner’s emphasis.)

<sup>35</sup> Order, para. 44.

<sup>36</sup> Order, para. 650.

<sup>37</sup> Bielby and Bielby, attached to CCC Comments as Table 1, p. 40.

However, the Commission goes on to say “the evidence in the record does not address whether the decline in the number of independently-produced programs is attributable to changes in the regulatory environment (i.e., the elimination of the fin/syn rules) or to other changes that have taken place in the media business in the intervening years that have increased the risk of producing prime time programming.”<sup>38</sup> We disagree. We believe the record is full of evidence that the elimination of independent sources from program production is the direct result of regulatory changes that allow the networks to leverage their control of the publicly-owned airwaves to create an oligopoly in both the production and distribution of programming.<sup>39</sup>

For example, Part II of the FCC’s commissioned study of diversity by Professor Mara Einstein, mentioned just once in the Commission’s Order, documents the network takeover of television program production in the past decade.<sup>40</sup> Interestingly, since completing this study for the Commission, Professor Einstein has subsequently written, “we cannot know whether deregulating ownership will be beneficial so why let the horse out of the barn when it is unlikely that we will be able to get it back in once we do? Better to err on the side of caution. More, not less, regulation of the five media giants that dominate the communications landscape is called for.”<sup>41</sup>

But for the purposes of this proceeding, it is immaterial what caused independent sources of production to become nearly extinct. The Commission properly notes that source diversity promotes its “retail” goal of viewpoint diversity. Viewpoint diversity is

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<sup>38</sup> Order, para. 650.

<sup>39</sup> CCC Comments, pp. 10-14.

<sup>40</sup> MOWG Study No. 5, *Program Diversity and the Program Selection Process on Broadcast Network Television*, by Mara Einstein (Sept. 2002).

<sup>41</sup> “Dereg? We should talk Re-Reg,” Mara Einstein, Broadcasting & Cable, April 28, 2003.

lacking due to excessive concentration of ownership. The best way for the Commission to promote viewpoint diversity is for it to promote source diversity in the production of television programming. It worked before and it will work again.

Therefore, we petition the Commission to reconsider its rejection of the various proposals to improve source diversity in the production of television programming.

## **VI. CONCLUSION**

The Commission's analysis of viewpoint diversity is fundamentally flawed. Properly analyzed, and using the Commission's own principles, the evidence in this record demonstrates excessive concentration of outlet ownership resulting in insufficient viewpoint diversity. As the Commission properly concluded at the outset of its Order, the promotion of viewpoint diversity is one of its core goals because the "diverse and robust marketplace of ideas is the foundation of our democracy" and "the widest possible dissemination of information from diverse and antagonistic sources is essential to the welfare of the public."<sup>42</sup> Therefore, it is incumbent upon the Commission to remedy this lack of viewpoint diversity by enacting a rule which promotes source diversity in the production of television programming.

After enacting new rules that will eviscerate viewpoint diversity and localism, the Commission now plans to study ways to promote viewpoint diversity and localism. This is the Commission's own tacit admission that its Order is fundamentally flawed. Common sense, good government, and the public interest all require the FCC to reconsider its admittedly flawed new media ownership rules.

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<sup>42</sup> Order, para. 19.



Respectfully submitted,

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